

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:30 p.m. on January 25, 2000, in Room 529-S of the Capitol.

All members were present except: Senator Praeger  
Senator Lawrence

Committee staff present: Dennis Hodgins, Legislative Research Department  
Mike Heim, Legislative Research Department  
Ken Wilke, Revisor of Statutes  
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chairman Hardenburger opened the meeting by asking for approval of the minutes of January 18 and 19, 2000.

Senator Vidricksen moved that the minutes be approved as written, seconded by Senator Becker. Motion carried.

Chairman Hardenburger continued hearings on **SB 389—concerning the capitol; relating to memorials on the capitol grounds; prescribing certain powers, duties, functions, guidelines and procedures.**

Senator Huelskamp made a motion to amend the bill by placing the word “permanent” before commemorative on page 3, sec. 4, line 17 of the bill, seconded by Senator Becker. Motion carried.

Senator Becker moved that SB 389 be passed as amended, seconded by Senator Vidricksen. Motion carried.

Chairman Hardenburger opened discussion on **SB 371—concerning parks; relating to the Johnson county parks and recreation district and repealing the existing section,** which pertains to a proposition to propose bonds for purchases of property without identifying the location. Only the general purpose of the acquisition and the estimated amount thereof as far as park purchases would be required.

Senator Huelskamp asked the Legislative Staff if any other counties could be involved as stated in this bill. Senator Hardenburger advised the Committee that she was concerned about the perception of the proposal. All other park districts in the state are required to identify specific locations for proposed acquisition on bond proposals.

Legislative staff presented copies of statutes to the Committee which reflects general authorities for cities and counties to issue bonds for public building, acquire land, and schools, and Statute 19-2801 which deals with county park lands. (Attachment #1)

Senator Vidricksen moved the passage of SB 371. The motion died for lack of a second.

After discussion regarding acquisition of park land, Chairman Hardenburger informed the Committee she would postpone action on **SB 371** until further discussion by the Committee.

Meeting was adjourned at 2:10 p.m. Next meeting is scheduled for January 26, 2000.



9. Land condemned for one purpose reverts to original owner when no longer used or needed for the purpose for which condemned. *Isley v. Bogart*, 338 F.2d 33.

10. City park is governmental function; rotating swing not nuisance. *Fowler v. City of Winfield, Kansas*, 286 F.2d 385.

11. Zoo in public park is governmental function; tests for determination. *Grover v. City of Manhattan*, 198 K. 307, 310, 424 P.2d 236.

**12-1302.** Same; bonds for land and improvements; election. For the purpose of acquiring land for park purposes under the provisions of this act or for the improvement thereof, cities may issue bonds whenever in the judgment of the governing body thereof it shall be expedient to acquire such lands or make such improvements: *Provided*, No such bonds shall be issued for the purpose of making improvements for park purposes until the governing body shall be instructed to do so by a majority of all the votes cast on the proposition at any general or special election: *Provided further*, Before bonds shall be issued for the purpose of acquiring land for park purposes under the provisions of this act the governing body of the city shall cause to be published once each week for two (2) consecutive weeks in the official city paper a notice of its intention to acquire such lands and issue bonds in payment thereof, which shall describe the lands to be acquired and the amount of the bonds to be issued. Such bonds may be issued and the property acquired unless a petition requesting an election upon the issuance of such bonds, signed by electors equal in number to not less than ten percent (10%) of the electors who voted at the last preceding regular city election as shown by the poll books, is filed with the city clerk within thirty (30) days following the last publication of such resolution. In the event a sufficient petition is filed within the time provided, no such bonds shall be issued until the governing body shall have submitted the question to and received the approval of a majority of those voting on the proposition at an election.

Any election held and any bonds issued shall be as provided by the general law.

**History:** R.S. 1923, § 12-1302; L. 1925, ch. 96, § 1; L. 1939, ch. 97, § 2; L. 1965, ch. 106, § 2; June 30.

**Source or prior law:**

L. 1903, ch. 135, §§ 2, 5, 6; L. 1909, ch. 69, § 2; L. 1917, ch. 89, § 1.

**Research and Practice Aids:**

Municipal Corporations ⇐ 911, 918(1).  
C.J.S. Municipal Corporations §§ 1907, 1908, 1920 et seq.

**Attorney General's Opinions:**

Cities issuance of bonds for motor sports raceway park valid exercise of home rule powers. 87-57.

Home rule powers of cities and counties; bond issuance. 88-92.

**CASE ANNOTATIONS**

1. Mayor not required to sign contract for expenditure larger than authorized amount. *City of Iola v. Hobart*, 141 K. 709, 711, 714, 42 P.2d 977.

**12-1302a.** Bonds for swimming pools; nonlitigation certificate, exception. The governing body of any city which, prior to the effective date of this act, has authorized, pursuant to the provisions of K.S.A. 12-1302, and amendments thereto, the issuance of general obligation bonds of the city in the amount of \$75,000 for the purpose of swimming pool and other park improvements is hereby authorized to issue and sell such bonds in the manner provided by law without approval by election and without executing a nonlitigation certificate required by K.S.A. 10-108a, and amendments thereto. All proceedings for the issuance of such bonds and all bonds issued pursuant thereto are hereby validated and confirmed. The total amount of bonds issued under authority of this act shall not exceed the amount of \$75,000.

**History:** L. 1986, ch. 60, § 1; April 17.

**12-1303.** City parks; maintenance; tax levy, use of proceeds. For the purpose of maintaining such parks and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, cities are hereby authorized to levy a tax to be known as park tax.

**History:** L. 1909, ch. 69, § 3; R.S. 1923, § 12-1303; L. 1979, ch. 52, § 42; July 1.

**Source or prior law:**

L. 1903, ch. 135, § 3.

**CASE ANNOTATIONS**

1. Limitation of tax levies in cities considered. *Bush v. City of Beloit*, 105 K. 79, 81, 181 P. 615.

**12-1304.** Same; park control and regulations. City parks so established shall be under the control of the governing body of said cities, who shall provide for the establishing and care of the same out of the funds raised as aforesaid, and shall make suitable regulations for the care and government of such parks.

**History:** L. 1909, ch. 69, § 4; March 26; R.S. 1923, § 12-1304.

**CASE ANNOTATIONS**

1. Liability of city in maintenance of parks considered. *Harper v. City of Topeka*, 92 K. 11, 17, 139 P. 1018.

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placed thereon; nor shall any of the property therein conveyed, or thereafter placed thereon, be subject to any lien, voluntary or involuntary, but any improvements or additions made to any property conveyed as herein authorized shall be paid for by said grantee as the same are made.

**History:** L. 1945, ch. 104, § 3; March 17.

**12-1707.**

**History:** L. 1951, ch. 146, § 1; L. 1953, ch. 69, § 1; Repealed, L. 1973, ch. 65, § 1; July 1.

**12-1708. Use of utility building or equipment for governmental purposes.** Whenever any city shall own any building or equipment which was constructed or purchased by the issuance of municipal revenue bonds or which building or equipment has been previously used by such city in its proprietary function and the governing body of such city shall find and declare by ordinance that such building or equipment is no longer used or needed by such city in its proprietary function of furnishing water, gas, light, heat or for other public utility purposes, then such city is authorized and empowered to alter, improve, repair, equip and use for any governmental function or purpose any such building or equipment or any part thereof as the governing body of such city may determine and declare by ordinance.

**History:** L. 1951, ch. 159, § 1; March 23.

Source or prior law:  
13-14,108 to 13-14,110.

**12-1708a. Leasing of certain property for industrial development.** This act shall apply to any city in the state of Kansas.

**History:** L. 1959, ch. 89, § 1; Feb. 17.

**12-1708b. Same; resolution; records.**

Whenever any such city has real estate which is no longer being used for the purpose for which it was originally acquired, it may lease such real estate or any part thereof to a corporation organized for the purpose of industrial development. Before executing any such lease, the governing body of such city shall by resolution find and determine that such real estate is no longer needed for the purpose originally acquired, and that it is in the best interest of the city that it be so leased. Upon the acceptance of any such lease by such corporation, said governing body may accept same by resolution, and the same shall be made a part of the records of such governing body, together with the lease agreement properly executed by

such corporation and the mayor and clerk of such city.

**History:** L. 1959, ch. 89, § 2; Feb. 17.

**12-1709 to 12-1713.**

**History:** L. 1951, ch. 232, §§ 1 to 5; Repealed, L. 1959, ch. 78, § 5; June 30.

**12-1714.**

**History:** L. 1953, ch. 76, § 1; L. 1965, ch. 109, § 1; Repealed, L. 1969, ch. 83, § 1; July 1.

**12-1715 to 12-1722.**

**History:** L. 1953, ch. 76, §§ 2 to 9; Repealed, L. 1969, ch. 83, § 1; July 1.

**12-1723.**

**History:** L. 1953, ch. 76, § 10; L. 1963, ch. 234, § 23; Repealed, L. 1969, ch. 83, § 1; July 1.

**12-1724, 12-1725.**

**History:** L. 1953, ch. 76, §§ 11, 12; Repealed, L. 1969, ch. 83, § 1; July 1.

**12-1726 to 12-1731.**

**History:** L. 1953, ch. 105, §§ 1 to 6; Repealed, L. 1969, ch. 84, § 1; July 1.

**12-1732 to 12-1735.**

**History:** L. 1957, ch. 241, §§ 1 to 4; Repealed, L. 1975, ch. 71, § 1; July 1.

**PUBLIC BUILDINGS**

**12-1736. Acquisition or construction of public buildings; sites; cooperating governmental units.** Any city in this state may erect or construct, acquire by gift, purchase, condemnation or lease a public building or buildings and procure any necessary site therefor by gift, purchase or condemnation and may alter, repair, reconstruct, remodel, replace or make additions to, furnish and equip a public building or buildings. The authority herein conferred may also be exercised jointly or in cooperation with any other governmental unit so empowered, upon such terms and conditions as shall be agreed upon by the governing body of the city and the governing body of such cooperating governmental unit.

**History:** L. 1959, ch. 78, § 1; June 30.

**Research and Practice Aids:**

Municipal Corporations ← 223.  
C.J.S. Municipal Corporations §§ 958-960.

**Attorney General's Opinions:**

Establishment of joint fund for future repair of building constructed under an interlocal cooperation project. 81-233.

Acquisition or construction of public buildings; tax levy. 84-76.

## CASE ANNOTATIONS

1. Contract by city to convey real estate to school considered and upheld. State, ex rel., v. City of Liberal, 186 K. 694, 698, 352 P.2d 7.

2. Petition seeking to enjoin city and board of education from contracting for use of land dedicated for another purpose; sufficiency. State, ex rel., v. City of Kansas City, 189 K. 728, 730, 731, 371 P.2d 161.

**12-1737.** Same; methods of financing authorized; issuance of bonds after election; tax levy, use of proceeds; protest petition and election; investment of fund; issuance of no-fund warrants. The governing body of any city may, for the purposes hereinbefore authorized and provided:

- (a) Receive and expend gifts;
- (b) receive and expend grants-in-aid of state or federal funds;
- (c) issue bonds of the city;
- (d) levy an annual tax of not more than one mill for any city of the first class and not more than two mills for any city of the second or third class, which tax levy may be made for a period not exceeding 10 years upon all taxable tangible property in such city for the purpose of creating a building fund to be used for the purposes herein provided and to pay a portion of the principal and interest on bonds issued by such city under the authority of K.S.A. 12-1774 and amendments thereto;
- (e) issue no-fund warrants;
- (f) use moneys from the general operating fund or other appropriate budgeted fund when available;
- (g) use moneys received from the sale of public buildings or buildings and sites; or
- (h) combine any two or more of such methods of financing for the purposes herein authorized except that cities shall first use funds received from the payment of insurance claims for damages sustained by any such public building before resorting to methods of financing herein authorized.

An election upon the issuance of bonds under the authority of this act shall be required for the purpose of acquiring or constructing city offices, public libraries, auditoriums, community or recreational buildings.

When an election upon the issuance of bonds is required, the question of the issuance of such bonds shall be submitted to a vote of the qualified electors of the city at a regular city election or at a special election called for that purpose. No such bonds shall be issued unless a majority of those voting on the question vote in favor of the issuance of the bonds. The bond election shall be called and held and the bonds

shall be issued in accordance with the provisions of the general bond law. No levies shall be made for the purpose of creating a building fund under the provisions of this act until a resolution authorizing the making of such levies is adopted by the governing body of the city. Such resolution shall state the specific purpose for which the tax levy is made, the total amount proposed to be raised and the number of years the tax levy shall be made. The resolution shall be published once each week for two consecutive weeks in the official city paper. After publication, the levies may be made unless a petition requesting an election upon the question of whether to make the levies is filed in accordance with this section. Such petition shall be signed by electors equal in number to not less than 10% of the electors who voted at the last preceding regular city election as shown by the poll books, is filed with the city clerk of such city within 60 days following the last publication of the resolution. If a valid petition is filed, the governing body shall submit the question to the voters at an election called for that purpose or at the next regular city election.

The levy authorized by this section shall be in addition to and not limited by any other act authorizing or limiting the tax levies of the city. The building fund may be used for the purposes provided by this act at any time after the second levy has been made. If there are insufficient moneys in the building fund for expenditures for such purposes, the governing body of the city may issue bonds of the city in the manner provided by the general bond law of the state and in an amount which, together with the amount raised by the tax levy authorized by this act, will not exceed the total amount stated in the resolution creating such fund. Cities are hereby authorized to invest any portion of the special building fund which is not currently needed in investments authorized by K.S.A. 12-1675 and amendments thereto in the manner prescribed therein or in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the special building fund.

No-fund warrants issued under the authority of this act shall be issued in the manner and form and bear interest and be redeemed as

poses. For such purposes said board of county commissioners is authorized to issue and sell general obligation bonds of the county in an amount not exceeding one-half of one percent (½ of 1%) of the total assessed tangible valuation of the county, subject, however, to the restrictions and conditions hereinafter contained in this act.

**History:** L. 1965, ch. 201, § 1; May 14.

**Cross References to Related Sections:**

Johnson county designated as urban area, see 19-2654, 19-3524.

**19-15,109. Same; resolution; protest petition; election.** Such board of county commissioners shall by written resolution unanimately adopted find that the acquisition of such site or sites is necessary and shall set out therein the location of the site or sites, the improvements to be made thereon, if any, and the total amount of bonds proposed to be issued. The resolution shall be published for three consecutive weeks in the official county paper. In the event a protest petition is signed by not less than five percent (5%) of the qualified voters of the county, as determined by the vote for secretary of state at the last general election, and is filed with the county clerk within thirty (30) days following the last publication of said resolution, it shall be the duty of the board of county commissioners of such counties to submit the question of acquiring such sites and making such improvements, if any, and paying for the cost thereof by the issuance of bonds to the voters of such counties at an election called for such purpose or at the next general election. If no such protest petition is filed within the time limitation contained herein, the board of county commissioners may proceed as authorized by this act. If an election is held pursuant to a protest petition and a majority vote is cast in favor of the proposition, the board of county commissioners shall have authority to proceed under this act.

**History:** L. 1965, ch. 201, § 2; May 14.

**19-15,110. Same; disposition of improvements on acquired sites.** Any improvements located on any site acquired by said board of county commissioners may be disposed of at public sale after first causing a publication for three consecutive weeks in the official county newspaper of the date and place of such sale.

**History:** L. 1965, ch. 201, § 3; May 14.

**19-15,111. Same; bond provisions.** The bonds issued for the purposes herein provided

shall not exceed the aggregate amount fixed and stated in said resolution hereinabove referred to and adopted by the board. All such bonds shall be issued, registered, sold, delivered and retired in accordance with the provisions of the general bond law and shall be subject to any limitations of bonded indebtedness of such county.

**History:** L. 1965, ch. 201, § 4; May 14.

**19-15,112, 19-15,113.**

**History:** L. 1965, ch. 205, §§ 1, 2; Repealed, L. 1969, ch. 145, § 1; July 1.

**19-15,114. County public buildings; definitions.** ~~As used in this act, unless the context clearly requires otherwise, the following words shall have the meanings ascribed to them in this section:~~

(a) "Public building" shall mean and include any building or structure determined by the board of county commissioners to be necessary to the county for any public county purpose.

(b) "Improve" shall mean and include alteration, repair, reconstruction, remodeling, furnishing, equipping, extending, adding to, enlarging or any other work which will enhance, extend or restore the value or utility of the public building.

**History:** L. 1965, ch. 198, § 1; June 30.

**Attorney General's Opinions:**

- Buildings, structures; public building defined. 79-7.
- County building; public building bonds. 79-9.
- County building; acquisition of site by condemnation. 79-118.
- County building; power of county commission to construct; fees and salaries; allowance for deputies. 79-279.
- Bond election; dual propositions prohibited. 80-257.
- Interlocal cooperation; establishment of joint fund for future repairs. 81-233.
- Hospitals; additions to medical clinics. 81-243.
- Interlocal cooperation; interlocal agreement to construct a building for school district, city and county purposes. 83-19.
- County buildings; consumption of liquor in public places. 85-35.
- County buildings; civic centers in certain counties. 85-53.
- County buildings; financing cost; issuance of bonds. 86-167.
- Home rule; renovation of county courthouse. 91-3.
- Counties and county officers; home rule powers; economic development; radio station funding. 91-89.

**CASE ANNOTATIONS**

1. Act cited in taxpayer action to enjoin county construction of medical clinic without voter approval. *Seltmann v. Board of County Commissioners*, 212 K. 805, 512 P.2d 334.

**19-15,115. Same; acquisition and construction; improvements; exercise of authority jointly with other municipalities.** The board of county commissioners of any county may when it deems necessary erect or construct, acquire by

gift, purchase, condemnation in fee simple or lease, a public building or buildings and may acquire any necessary site therefor by gift, purchase or condemnation in fee simple, or make use of any site or sites previously acquired by the county under authority of any other statute and may improve any existing public building. The authority herein conferred may also be exercised jointly or in cooperation with any other political subdivision of this state so empowered, upon such terms and conditions as shall be agreed upon by the board of county commissioners of the county and the governing body of such cooperating political subdivision.

**History:** L. 1965, ch. 198, § 2; June 30.

**Attorney General's Opinions:**

County building; power of county commission to construct; fees and salaries; allowance for deputies. 79-279.

Bond election; dual propositions prohibited. 80-257.

Interlocal cooperation; establishment of joint fund for future repairs. 81-233.

County buildings; consumption of liquor in public places. 85-35.

Home rule; renovation of county courthouse. 91-3.

**CASE ANNOTATIONS**

1. Cited in taxpayer action to enjoin construction of medical clinic by county without voter approval. *Seltmann v. Board of County Commissioners*, 212 K. 805, 809, 512 P.2d 334.

**19-15,116.** Same; financing of costs; issuance of bonds, procedure; tax levy, use of proceeds; adoption and publication of resolution; protest petition and election; no-fund warrants. The board of county commissioners of any county may for the purposes hereinbefore authorized and provided:

- (a) Receive and expend gifts;
- (b) Receive and expend grants-in-aid of state or federal funds;
- (c) Issue general obligation bonds of the county. If it is determined that it is necessary to issue more than \$300,000 in general obligation bonds for the purposes hereinbefore authorized, such bonds shall not be issued until the question of their issuance has been submitted to a vote of the qualified electors of the county and has been approved by a majority of those voting thereon at a general election or at a special election called for that purpose. Such election shall be called and held and bonds issued in the manner provided by the general bond law;
- (d) Make an annual tax levy of not to exceed one mill for a period of not to exceed 10 years upon all taxable tangible property in the county for the purpose of creating a building fund to be

used for the purposes herein provided and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, except that no such levies shall be made until a resolution authorizing the same shall be adopted by the board of county commissioners stating the specific purpose for which such fund is created, the total amount proposed to be raised, the number of years such tax levy shall be made and shall be published once each week for three consecutive weeks in the official county newspaper. Whereupon such levies may be made unless a petition requesting an election upon the proposition, signed by electors equal in number to not less than 10% of the electors of the county who voted for the secretary of state at the last preceding general election, is filed with the county clerk within 30 days following the last publication of such resolution. In the event such petition is filed, the board of county commissioners shall submit the question to the voters at an election called for that purpose and held within 90 days after the last publication of the resolution or at the next general election if held within that time and no such levies shall be made unless such proposition shall receive the approval of a majority of the votes cast thereon. Such election shall be called and held in the manner provided in the general bond law. Such building fund may be used for the purposes stated in the resolution establishing the same at any time after the making of the second levy and if there are insufficient moneys in the building fund for such purpose the board of county commissioners may, in the manner provided by the general bond law of the state issue general obligation bonds of the county in an amount which together with the amount raised by the tax levies will not exceed the total amount stated in the resolution creating such fund. All levies authorized under the provisions of this section shall be in addition to and not limited by any other act authorizing or limiting the tax levies of such counties. Counties are hereby authorized to invest any portion of the special building fund which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such

investment shall upon receipt thereof be credited to the special building fund, except that the board of county commissioners of any county which has heretofore established a building fund under the provisions of this act may, if it shall find that the amount of the fund as originally established is insufficient for such purposes, by resolution re-determine and increase the amount necessary to be raised for the purpose for which such fund was originally created and may make or continue to make an annual tax levy of not to exceed one mill upon all of the taxable tangible property of the county for the purpose of providing the additional funds contemplated by the supplemental resolution and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Such supplemental resolution shall be published and shall be subject to petition for election and become effective in like manner as that provided for the original resolution;

(e) Issue no-fund warrants in the manner and form and bearing interest and redeemable as prescribed by K.S.A. 79-2940, except that they may be issued without the approval of the state board of tax appeals, and without the notation required by such section. The board of county commissioners shall make a tax levy at the first tax levying period after such warrants are issued, sufficient to pay such warrants and the interest thereon. All such levies shall be in addition to all other levies authorized or limited by law and the tax limitations provided by article 19 of chapter 79 of the Kansas Statutes Annotated shall not apply to such levies;

(f) Use moneys from the general operating fund or other appropriated budgeted fund when such is available;

(g) Use moneys received from the sale of public buildings or buildings and sites without regard to limitations prescribed by the budget law;

(h) Or may combine any two or more of such methods of financing for the purposes herein authorized, except that counties shall first use funds received from the payment of insurance claims for damages sustained by any such public building before resorting to methods of financing herein authorized;

(i) Authorize the county engineer to supervise the work necessary for the purposes herein provided, including the right of such county engineer

to have such work done by force account as well as by contract.

**History:** L. 1965, ch. 198, § 3; L. 1972, ch. 77, § 1; L. 1977, ch. 54, § 26; L. 1979, ch. 52, § 89; L. 1982, ch. 118, § 1; April 29.

**Cross References to Related Sections:**

Investment of moneys in special building fund in recreation funds anticipation notes, see 19-2876a.

**Attorney General's Opinions:**

Aggregate tax levy limitations; tax levies subject to limitations. 79-206.

County building; power of county commission to construct; fees and salaries; allowance for deputies. 79-279.

Fire protection; issuance of no-fund warrants. 80-6.

Bond election; dual propositions prohibited. 80-257.

Interlocal cooperation; establishment of joint fund for future repairs. 81-233.

Hospitals; additions to medical clinics. 81-243.

Interlocal cooperation; interlocal agreement to construct a building for school district, city and county purposes. 83-19.

County buildings; consumption of liquor in public places. 85-35.

County buildings; financing cost; issuance of bonds. 86-167.

Home rule; renovation of county courthouse. 91-3.

**CASE ANNOTATIONS**

1. Hospital bond election void; failure to comply with statutory requirements; mandamus and declaratory judgment denied. State, ex rel., v. Kerns, 210 K. 579, 580, 585, 502 P.2d 639.

2. Cited in taxpayer action to enjoin construction of medical clinic by county without voter approval. Seltmann v. Board of County Commissioners, 212 K. 805, 809, 512 P.2d 334.

**19-15,117. Same; lease of buildings, when; terms and conditions.** Any county owning or hereafter acquiring any public building may, except as otherwise specifically provided by law, lease any such building or any part thereof, when the board of county commissioners shall by resolution determine that the same is not required for county purposes, for a period not exceeding one (1) year at a time, upon such terms and conditions as the board of county commissioners may deem to be in the best interest of the county.

**History:** L. 1965, ch. 198, § 4; June 30.

**Attorney General's Opinions:**

County building; power of county commission to construct; fees and salaries; allowance for deputies. 79-279.

County buildings; consumption of liquor in public places. 85-35.

Cereal malt beverage consumption on county-owned property. 86-142.

**CASE ANNOTATIONS**

1. Cited in taxpayer action to enjoin construction of medical clinic by county without voter approval. Seltmann v. Board of County Commissioners, 212 K. 805, 809, 812, 512 P.2d 334.

**19-15,118. Same; sale of building and site; terms; use of moneys.** Any county owning



city sewer system or the county sewer district will benefit from the use of sewer facilities constructed by the other governmental unit, notice of the determination shall be given along with the notice of the public hearing. After the determination, the board of county commissioners may levy and collect an annual charge against the property benefited, which shall be used only for the purpose of helping to pay the principal of and interest on the bonds issued by the other governmental unit for the purpose of constructing the sewer facilities being utilized. The cost of any further enlargements or improvements of the county sewer district shall be paid by sale of general obligation bonds of the county as provided by the general bond law and shall be assessed against all of the properties included in the county sewer district at the time of the issuance thereof.

**History:** L. 1983, ch. 99, § 25; July 1.

**19-27a25. Additional user charge to pay cost for use of other municipality's treatment plant.** Whenever the sewers of one or more sewer districts under the direction and control of any board of county commissioners drain into the treatment plant of another municipality either within or outside the state, and the municipality imposes a charge upon the sewer district for a proportionate share of the expense of operating the treatment plant, the governing body of the sewer district, by resolution, may establish an additional user charge to cover the total cost of the charge imposed upon the district.

**History:** L. 1983, ch. 99, § 26; July 1.

**19-27a26. Districts in Sedgwick county; delegation of powers to controller.** The board of county commissioners of Sedgwick county may delegate to the county controller the responsibility of administering and coordinating the planning, development, construction and maintenance of the sewer system. The cost and expenses of the county controller for administration of any sewer project shall be included in the cost of the project and assessed against the lots and pieces of property contained within the district in which the same is located.

**History:** L. 1983, ch. 99, § 27; July 1.

**19-27a27. Existing districts to operate under 19-27a01 et seq.; exception.** Except as provided by K.S.A. 19-27,170 et seq., and amendments thereto, any sewer district created under the provisions of article 27 of chapter 19 of the

Kansas Statutes Annotated, and amendments thereto, prior to the effective date of this act shall continue in existence and shall operate under the provisions of this act.

**History:** L. 1983, ch. 99, § 28; July 1.

### Article 28.—PARKS, MUSEUMS, LAKES AND RECREATIONAL GROUNDS

#### Cross References to Related Sections:

Lease of land for youth camps in counties between 65,000 and 125,000, see 19-2643.

Procedures for correction of public improvement project bids based on mistakes, see 75-6901 et seq.

#### ANY COUNTY

**19-2801. Parks, museums and recreation grounds; maintenance of certain city, district and township parks; contracts for recreational activities; issuance of bonds; tax levy, use of proceeds; protest petition and election.** Any county may establish and maintain public parks, museums and recreation grounds and make additions to the same within said county as hereinafter provided, including the maintenance of any city, park district or township park, museum and recreation grounds used generally by residents of the county under agreements with the governing bodies thereof, and may contract for services or cooperate with another governmental agency to provide recreational activities, including programs for the aging, and may take and acquire title to lands, including any and all rights thereon, for the purpose of establishing the same by condemnation under the provisions of the general eminent domain procedure act or by gift, devise, purchase or in any other manner and may issue general obligation bonds of the county to pay the cost thereof or may make a special levy to pay the cost thereof and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Before any such public park, museum or recreation grounds or additions to the same shall be acquired and established and any bonds issued or tax levy made, a notice of the same shall be published once each week on the same day of the week for two consecutive weeks in the official county newspaper. Such notice shall declare the intention of the governing body to establish such public park, museum or recreation grounds or to make an addition to the same, describe the specific property and rights to be acquired and any other pertinent information

regarding such establishment, state the method of financing to be used and state the estimated cost of the same. If, within sixty (60) days after the last publication of said notice, there shall be filed in the office of the county clerk, not later than 5:00 p.m. on the last day, a protest signed by qualified electors equal in number to not less than five percent (5%) of the electors who voted for the secretary of state at the last preceding general election, an election shall be called and held within ninety (90) days after the last publication of said notice or at the next general election if held within that time. Such election shall be called, and held in the manner provided by law for bond elections. If no protest or no sufficient protest is filed or if an election is held and the proposition carries by a majority of those voting thereon, the governing body may establish the park, museum or recreation grounds or make additions to the same and may issue bonds to pay the cost thereof or levy a tax to pay the cost thereof and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county all as provided in the notice. No such bonds shall be issued in an amount exceeding fifty thousand dollars (\$50,000) until the question of issuing the same shall have been submitted to and approved by a majority of the electors voting thereon at an election called and held for such purpose. Such bonds shall be issued in the manner provided by the general bond law and shall be included within the county's bonded indebtedness limitation.

**History:** L. 1929, ch. 158, § 1; L. 1935, ch. 137, § 1; L. 1957, ch. 182, § 1; L. 1965, ch. 173, § 1; L. 1972, ch. 81, § 1; L. 1973, ch. 123, § 1; L. 1978, ch. 92, § 2; L. 1979, ch. 52, § 116; July 1.

**Research and Practice Aids:**

Counties = 22.  
C.J.S. Counties § 50.

**Attorney General's Opinions:**

Parks, museums, lakes and recreational grounds; acquisition of lands. 79-63.

General provisions; dissolution of districts; elections; transfer of funds. 84-7.

Home rule powers of cities and counties; bond issuance. 88-92.

**19-2802. Same; donations and bequests; regulations for supervision; board of trustees, when.** The county may receive donations and bequests of either money or property, for the purposes established in K.S.A. 19-2801. The board of county commissioners shall make all

regulations necessary for the supervision and conducting of said activities, and may hire such employees as may be necessary. Whenever such activities have been established as authorized under the provisions of K.S.A. 19-2801 and the county commissioners, shall, by resolution, determine that it is to the best interests of the county to place the supervision of such activity under a county board of trustees, the said commissioners may appoint a board of not less than three (3) members and not more than nine (9) members, composed of persons other than the board of county commissioners, who shall serve at the pleasure of the commission. The board so established may be vested with all of the powers theretofore vested in the county commissioners, or such supervisory powers as the commissioners may, by resolution, delegate, and the board so appointed may exercise all powers so delegated.

**History:** L. 1929, ch. 158, § 2; L. 1959, ch. 141, § 1; L. 1965, ch. 173, § 2; June 30.

**19-2803. Same; tax levy, use of proceeds.** The board of county commissioners is authorized to levy a tax not to exceed the limitation prescribed by K.S.A. 79-1947, and amendments thereto, for the creation of a fund to be used for the purposes set forth in K.S.A. 19-2801 and for the purpose of paying a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county.

**History:** L. 1929, ch. 158, § 3; L. 1951, ch. 483, § 2; L. 1959, ch. 377, § 3; L. 1961, ch. 442, § 2; L. 1965, ch. 173, § 3; L. 1970, ch. 100, § 21; L. 1979, ch. 52, § 117; July 1.

**Research and Practice Aids:**

Counties = 193.  
C.J.S. Counties § 284.

**19-2803a. Rules and regulations by county commissioners; publication; penalties.** (a) The board of county commissioners of any county or the township board of any township owning and operating a park, lake or other recreational area is hereby empowered to adopt, by resolution, reasonable rules and regulations regulating and licensing the use and enjoyment of any such facilities by the public, and for the protection and preservation of such properties. Except as provided in this section, any person violating such rules and regulations shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$100 or commitment

**Cross References to Related Sections:**

Prompt payment for goods and services, see 75-6401 et seq.

**Research and Practice Aids:**

Schools and School Districts ⇐ 80 (1, 2).

C.J.S. Schools and School Districts §§ 281 et seq., 284 to 289.

**Attorney General's Opinions:**

Rural water districts; competitive bids on construction projects; rejection of lowest bid. 88-45.

Board of technical professions (architects); rules and regulations; specifications; public policy. 90-23.

Subject and title of legislative bill; two subjects in bill discussed. 91-82.

School district expenditures over \$10,000; requirements relating to bids and bidders; exemptions; architectural services. 91-108.

Organization order for unified school district; affirmative action contracting program. 92-3.

**CASE ANNOTATIONS**

1. Statute does not require soliciting of sealed bids for rendering of services. D-1 Constructors, Ltd. v. U.S.D. No. 229, 14 K.A.2d 245, 247, 788 P.2d 289 (1990).

**72-6760a.**

**History:** L. 1967, ch. 507, § 1; L. 1969, ch. 334, § 5; Repealed, L. 1971, ch. 233, § 1; July 1.

**72-6761.** General obligation bonds; purpose for issuance; when election required; contest of validity; limitations; temporary notes, tax levy. (a) The board of education of a school district is authorized to select any site or sites necessary for school district purposes. When a board determines that it is necessary to purchase or improve a site or sites, or to acquire, construct, equip, furnish, repair, remodel or make additions to any building or buildings used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, or to purchase school buses, the board may submit to the electors of the unified district the question of issuing general obligation bonds for one or more of the above purposes, and upon the affirmative vote of the majority of those voting thereon, the board shall be authorized to issue the bonds. The board shall adopt a resolution stating the purpose for which bonds are to be issued and the estimated amount thereof. The board shall give notice of the bond election in the manner prescribed in K.S.A. 10-120, and amendments thereto, and the election shall be held in accordance with the provisions of the general bond law. No action shall be brought in any court to contest the validity of any election held under this subsection, nor to contest any of the proceedings preliminary thereto, except within 90 days

immediately following certification of the results of the election. The aggregate amount of bonds of a board outstanding at any time, exclusive of bonds specifically exempted from statutory debt limitations, shall be limited to a percentage, determined as prescribed by K.S.A. 79-5037, and amendments thereto, of the assessed valuation of taxable tangible property within the school district, except that such limitation may be modified as provided in article 23 of chapter 75 of Kansas Statutes Annotated.

(b) Any board of education may issue, without an election but with the approval of the state board of education, bonds to construct or acquire buildings to be used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, to repair school district buildings, to acquire equipment, or to purchase school buses, in an amount not to exceed \$20,000. Bonds issued without an election under this subsection shall not be subject to any bonded debt limitations nor shall the bonds be considered in determining the bonded indebtedness of any school district, and the total amount of bonds outstanding which are issued hereunder without an election shall not at any one time exceed \$20,000.

(c) In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may be retired, at the option of the board of education, by tax levies made under K.S.A. 10-113, and amendments thereto.

**History:** L. 1963, ch. 393, § 28; L. 1969, ch. 335, § 1; L. 1971, ch. 234, § 1; L. 1980, ch. 221, § 1; L. 1981, ch. 286, § 1; L. 1991, ch. 227, § 1; July 1.

**Research and Practice Aids:**

Schools and School Districts ⇐ 68, 97(1).

C.J.S. Schools and School Districts §§ 247, 257, 359 et seq.

**Attorney General's Opinions:**

Refunding bonds; conditions and limitations; refinancing construction accounts. 86-112.

**CASE ANNOTATIONS**

1. K.S.A. 1965 Supp. 72-67,114(f) (now repealed) fixes notice of bond election hereunder. Masheter v. Vining, 198 K. 691, 692, 694, 426 P.2d 149.

2. Consent to close attendance facility under 72-6756 no prerequisite to issuance of bonds hereunder. Masheter v. Vining, 198 K. 691, 692, 694, 426 P.2d 149.

3. Election proposition did not sufficiently inform electorate of use of bond proceeds in connection with other funds. Unified School District v. Hedrick, 203 K. 478, 480, 481, 482, 487, 488, 454 P.2d 536.

4. Notice of election held hereunder valid. West v. Unified School District, 204 K. 29, 30, 32, 33, 460 P.2d 103.